

SUBJECT: Administrative law judge authority to release confidential CPS records

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Rose, Herrero, Darby, Hernandez, Legler, Naishtat, Walle

0 nays

2 absent — Elkins, Hughes

WITNESSES: For — Jay Brim; Jennifer Canaday, Association of Texas Professional Educators; (*Registered, but did not testify*: Lonnie Hollingsworth, Texas Classroom Teachers Association; Ted Melina Raab, Texas American Federation of Teachers)

Against — None

BACKGROUND: Under certain circumstances, a civil or criminal court judge may order the release of confidential Child Protective Services (CPS) records related to a report or investigation of child abuse or neglect. An order for disclosure of this confidential information could occur if:

- a motion had been filed with the court requesting the release of the information;
- a notice of hearing had been served on the investigating agency and all interested parties; and
- the court determined, upon hearing and review of the requested information, that the disclosure was essential to the administration of justice and not likely to endanger the life or safety of the child, a caregiver of the child, a person who reported alleged child abuse, or a person investigating reported abuse.

DIGEST: *(The author intends to offer a floor substitute for HB 2876. The following digest is of the floor substitute.)*

HB 2876 would allow an administrative law judge to order the disclosure of confidential records regarding a report or investigation of child abuse or

neglect on a motion in a contested case regarding the licensing or certification of:

- an educator, including school personnel such as teachers, administrators, or counselors; or
- a professional who had direct contact with children in the normal course of their job duties, such as a teacher, nurse, day-care employee, or juvenile probation officer.

Before release of the information, the administrative law judge would have to follow the same procedures required of civil or criminal judges to release CPS records. An administrative law judge would be required to provide notice of hearing to the appropriate parties and only could order disclosure of the information if the judge determined it was essential to the administration of justice and was not likely to endanger the life or safety of parties to the case.

The information disclosed would have to be edited to protect the confidentiality of a person who reported child abuse or neglect.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

NOTES:

The proposed floor substitute would revise HB 2876 as filed to specify that administrative law judges only could disclose CPS records if the records related to a contested case about the licensing or certification of an educator or a professional who worked with children. The amendment also would require the information disclosed to be edited to protect the confidentiality of a person who reported child abuse or neglect.